

Chapter XVI: HENDERSON HERITAGE PRESERVATION COMMISSION

1601.00. DECLARATION OF PUBLIC POLICY AND PURPOSE: The Council of the City of Henderson hereby declares as a matter of public policy that the preservation, protection, perpetuation, promotion and use of are places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the, health, prosperity, safety and welfare of the community. To this end, the Heritage Preservation Commission is created and charged with the stewardship of Henderson's heritage.

The purposes of this ordinance are to:

1. Safeguard the heritage of the City of Henderson by preserving properties which reflect elements of the City's cultural, social, economic, political, visual or architectural history;
2. Protect and enhance the City of Henderson's appeal and attraction to residents, visitors, businesses and tourists;
3. Enhance the visual and aesthetic character, diversity and interest of the City of Henderson;
4. Foster civic pride in the beauty and notable accomplishments of the past; and
5. Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City of Henderson.
6. Provide guidance and assistance to owners of historic properties in the continuing preservation and appropriate use of their structures.
7. Conduct research and education programs regarding historic properties and landscapes connected to the history of the community within the Minnesota River watershed.
8. Provide a continuing, objective and orderly process for the Henderson City Council, planning commission and other public bodies to review and consider the impact of proposed development, redevelopment and remodeling of historic properties.

1601.05. DEFINITIONS: As used herein, "Heritage Preservation Site" shall mean any area, place, building, structure, land, district, or other object which has been duly designated as a Heritage Preservation Site in accordance with Section 1601.03 of this Ordinance.

Subd. 1. MEMBERS: There is hereby created and established a City of Henderson Heritage Preservation Commission (hereinafter, the "Commission") which shall consist of no less than five (5) and no more than nine (9) voting members to be appointed by the Mayor, by and with the advice and consent of the City Council. The Chairperson of the Henderson Planning Commission or their designee/s shall be ex-officio non-voting members of the Commission. Any member appointed to serve on the Heritage Preservation Commission shall be a resident of Henderson and shall have a demonstrated interest and/or expertise in historic preservation.

Subd. 2. TERM: The mayor and City Council shall initially appoint one (1) member to serve a term of one (1) year, two (2) members to serve a term of two (2) years, and two (2) members to serve a term of three (3) years. Terms of office shall expire on the first day of March in the year following their last full year of appointment. All subsequent appointments shall be for a term of three (3) years. Members may be re-appointed for consecutive terms. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment is made. Members shall serve without compensation and, if a successor has not been appointed: by the end of their term, shall continue to hold office until their successors have been appointed.

Subd. 3. ORGANIZATION: The Commission when formed shall elect from its members such officers, as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this ordinance which are not inconsistent with the laws of the City of Henderson and the State of Minnesota. The Commission shall prepare an annual report by October 31 of each year as required in accordance with Minnesota Statutes §471. 193 Subd. 6 for submission to the Minnesota State Historic Preservation Office and shall file

a copy with the City Administrator for distribution to the City Council.

Subd. 4. PROGRAM ASSISTANCE: To accomplish the intent and purpose of this ordinance, the City of Henderson shall provide the Commission with staff support to perform the duties prescribed under this ordinance, including supervised public access to the historical archives, records, and files of the Commission and City.

1601.15. DESIGNATION OF HERITAGE PRESERVATION SITES:

Subd. 1. REPORTS: The Commission shall ensure that an updated list of all areas, places, buildings, structures, lands, districts or other objects which have been designated as Heritage Preservation sites as well as an updated catalogue of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the Heritage Preservation Program for Henderson are prepared, compiled, and made reasonably available by city staff at city hall.

The City Council, upon request of the Commission, may direct city staff to prepare studies which catalog areas, places, buildings, structures, lands, districts or other objects to be considered for designation as Heritage Preservation Sites.

Subd. 2. CRITERIA: All Heritage Preservation Sites previously designated by the City of Henderson shall continue their designation under this Ordinance unless the Commission specifically finds that any such site does not meet the designation criteria provided in this subdivision.

1. Its character, interest or value as part of the development, heritage, or cultural characteristics of the City of Henderson, State of Minnesota, or the United States.
2. Its location as a site of a significant historic event.
3. Its identification with a person or persons who significantly contributed to the culture and development of the City of Henderson.
4. Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment.
5. Its identification as work of an architectural or master builder whose individual work has influenced the development of the City of Henderson.
6. Its embodiment of elements of architectural design, detail, materials, or craftsmanship which represent a significant architectural innovation.
7. Its unique location, scale or other physical characteristic representing an established and familiar visual feature of a neighborhood, a district, the community, or the City of Henderson.

Subd. 3. PROPOSED PROGRAM FOR PRESERVATION: For each Heritage Preservation Site recommended to the City Council, a proposed program for rehabilitation and preservation shall be created. The United States Secretary of the Interior Standards for Rehabilitation, as listed in Section 1601:20 Subd. 3, shall be among the standards used to create such programs.

Subd. 4. HEARINGS: Prior to the Commission recommending to the City Council any area, place, building, structure, land, district, or other object for designation as a Heritage Preservation Site, the Commission shall hold a public hearing and seek the recommendations of all concerned citizens. Prior to such hearing, the Commission shall cause to be published in the City's official newspaper a notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be mailed at least ten (10) days before the day of the hearing to all owners of record of the property or properties proposed to be designated as a Heritage Preservation Site and to all owners of property situated wholly or partly within 350 feet of the Heritage Preservation Site. The Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the citizens.

Subd. 5. FINDINGS AND RECOMMENDATIONS: The Commission shall determine if a proposed site is eligible for designation as a Heritage Preservation Site as determined by the criteria specified in Subd. 2 of this Section. In accordance with Minnesota Statutes §471.193, the Commission shall send to the Minnesota Historical Society/State Historic Preservation Office any proposed designation of a Heritage Preservation Site, including boundaries, and the proposed program for the preservation of the Heritage

Preservation Site. The Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the Minnesota Historical Society/State Historic Preservation Office.

Subd. 6. **PLANNING COMMISSION REVIEW:** If the Commission recommends that the proposed site be designated as a Heritage Preservation Site, the Commission shall transmit to the City Planning Commission its recommendation, including boundaries, and the proposed program for the preservation of the Heritage Preservation Site. The Commission shall request from the City Planning Commission its comments on the proposed designation as a Heritage Preservation Site relative to the City Zoning Code and Comprehensive Plan of the City of Henderson, and any other valid City planning considerations relevant to the proposed designation. The City Planning Commission's comments shall become part of the official record concerning the proposed designation and shall be submitted by the Heritage Preservation Commission along with its recommendation concerning the proposed designation to the City Council. The Heritage Preservation Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the City Planning Commission.

Subd. 7. **COUNCIL DESIGNATION HEARINGS:** The City Council, upon the request of the Commission, may designate, by ordinance, a Heritage Preservation Site. Such an ordinance shall require a two-thirds vote of all members of the City Council to be effective.

Subd. 8. **COUNCIL APPROVAL:** The Commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic property or district without the consent of the City Council.

Subd. 9. **IDENTIFICATION PLAQUE:** Those buildings or structures having been designated as Historic Preservation Sites by the City Council may be awarded a numbered Plaque to be displayed on the exterior of the Site in full public view with the owner's consent. The plaque is to remain the property of the City and shall be removed by request of the Commission should the Site be so altered as to destroy the historic integrity of the Site.

Subd. 10. **DESIGNATED HERITAGE PRESERVATIONS SITES:** Pursuant to the procedures set forth in the Section 1601.03 above the following parcels are designated as heritage preservation sites:

- A. 1879 Courthouse/Henderson Community Building
- B. Poehler residence/Sibley County Historical Society
- C. North 5th Street Municipal Power Plant/City Civil Defense Building

1601.20. **REVIEW OF PERMITS:** Subdivision 1. **SITE ALTERATION PERMIT:** Site Alteration Permit shall be required for any alteration of any designated Heritage Preservation Site. The Commission shall review and approve or disapprove the City's issuance of a Site Alteration Permit to do any of the following in a Heritage Preservation Site in the City of Henderson. In addition to any other specifics the zoning administrator may require, the Site Alteration Permit application shall be accompanied by detailed plans including a property plan, building elevations and design details and materials as necessary to evaluate the request. Besides the Site Alteration Permit, regular City permits shall be required. The following are subject to a Site Alteration Permit:

1. Painting, architectural details, and other related exterior alterations.
2. Addition or deletion of awnings, shutters, canopies, and similar appurtenances.
3. Application or use of exterior materials of a different kind, type, color, texture than those already in use which will substantially cover one or more sides of the structure. This provision applies to roofing as well as siding.
4. Signs.
5. Construction of a new building or auxiliary structure.
6. Any addition to or alteration of an existing structure which increases the square footage in the structure or otherwise alters its size, height, contour, or outline.
7. Change or alteration of a structure's architectural style.
8. Alteration of a roof line.
9. Demolition in whole or in part. This does not apply to structures required to be demolished in

accordance with Minnesota Statutes, Chapter 463 (Building Line easements; Building Regulations; and Hazardous Buildings).

Subd. 2. CITY ACTIONS: The Commission shall review and make recommendations to the City Council concerning City activity that could change the nature or appearance of a Heritage Preservation Site.

Subd. 3. PRESERVATION PROGRAM: All decisions of the Commission with respect to this Section shall be in accordance with the approved program for the rehabilitation of each Heritage Preservation Site. The Secretary of the Interior Standards for Rehabilitation shall be used to evaluate applications for Site Alteration Permits as follows:

1. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
2. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
3. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
4. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
5. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
6. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
7. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
8. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future the essential form and integrity of the historic property and its environment would be unimpaired.

1601.25. FINDINGS: Before approving any permit or application required under Section 1601:20 of this ordinance, the Commission shall make findings based on the program for preservation of the Heritage Preservation Site in regard to the following:

1. In the case of a proposed alteration or addition to existing buildings. The Commission shall make written findings on how the structure may be architecturally or historically affected considering the existing exterior appearance, building height, building width, depth, or other dimensions, roof style, type of building materials, ornamentation, paving and setback.
2. In the case of the proposed demolition of a building prior to approval of the demolition, the Commission shall make written findings on the following: architectural and historic merit of the building, the effect on surrounding buildings, the effect of any new proposed construction on the remainder of the building (in case of partial demolition) and on surrounding buildings, the economic value or usefulness of the building as it now exists, or if altered or modified, in comparison with the value or usefulness of any proposed structures designated to replace the present building or buildings.
3. In the case of a proposed new building the Commission shall make written findings on how the building will in itself, or by reason of its location on the property, materially affect the architectural or historic value of buildings on adjacent sites or in the immediate vicinity within

the Heritage Preservation Site.

1601.30. APPEAL TO THE CITY COUNCIL: The applicant for a Site Alteration Permit or any other party aggrieved by the decision of the Commission relative to a Site Alteration Permit shall, within ten (10) working days of the date of the Commission's order and decision, have a right to appeal such order and decision to the City Council. The appeal shall be deemed perfected upon receipt by the City Clerk of a notice of appeal and statement setting forth the grounds for the appeal. The City Clerk shall transmit a copy of the notice of appeal and statement to the City Council and a copy to the Commission. The City Council may overturn the Commission's order and decision by a two-thirds vote of all members of the City Council. The Commission, in any written order denying a permit application, shall advise the applicant of the applicant's right to appeal to the City Council and shall include this Section in all such orders.

1601.35. LIMITATIONS: If within forty-five (45) days from the filing of a Site Alteration Permit application the Commission has neither approved nor denied the Site Alteration Permit application, the plans and permit application shall be deemed to have been approved by the Commission, and if all other requirements of the City have been met, the City shall authorize a permit for the proposed work. No permit shall be issued nor work commenced in the event the Commission disapproves the Site Alteration Permit application in accordance with this ordinance.

1601.40. EMERGENCY REPAIR: In emergency situations where immediate repair is needed to protect the safety of a building or structure and its inhabitants, the City Administrator and City Building Official may approve the repair without prior Commission action. In the case of an emergency repair permit issued pursuant to this Section, the City Administrator shall immediately notify the Commission of its action and specify the facts or conditions constituting the emergency situation.

1601.45. ENFORCEMENT: In case any building or structure subject to the regulation of this ordinance is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved or subjected to demolition in violation of this ordinance, the zoning administrator, in addition to any other remedies, may:

1. Institute civil action for injunctive relief to stop, prevent, or abate a violation of this ordinance.
2. Issue a stop work order to prevent a continuing violation of this ordinance.

Work which proceeds in violation of this ordinance, in contravention of a stop work order, or in disregard of a court ordered injunction shall be a public nuisance.

1601.50. ADDITIONAL POWERS AND DUTIES OF THE COMMISSION: The Commission shall have the following powers and duties in addition to those otherwise specified in this ordinance:

1. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, lands, districts or other objects in the City of Henderson which the Commission, on the basis of information available or presented to it, has reason to believe are significant to the culture, social, economic, political, or architectural history of the City of Henderson.
2. The Commission shall continually survey all areas to determine needed and desirable improvements of older buildings throughout the City of Henderson, acting in a resource and advisory capacity to owners of historically significant sites regarding their preservation, restoration and rehabilitation.
3. The Commission shall work for the continuing education of the citizens of the City of Henderson with respect to the civic and architectural heritage of the City. It shall keep current a public register of designated and proposed Heritage Preservation Sites along with the plans and programs that pertain to them.
4. The Commission may recommend to the City the acceptance of gifts and contributions to be made to the City and to assist the City staff in the preparation of applications for grant funds to be made through the City for the purpose of heritage preservation. Any contributions or gifts

will be expended in the manner provided through the fiscal policy of the City of Henderson.

1601.55: REPOSITORY FOR DOCUMENTS: The office of the City Clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this Section. These files will be maintained in accordance with Minnesota Statutes § 138.17.

1601.60. RECORDING OF HERITAGE PRESERVATION SITES: The office of the City Clerk shall record or file with the Sibley County recorder or registrar of titles the legal description of all properties designated as Heritage Preservation Sites by the City of Henderson.